

Gregory P. Brock, Cal. Bar #181903
A Member of York & Brock
A Law Corporation
918 Parker Street, Suite A21
Berkeley, California 94710
Email:gbrock@jyorklaw.com
Telephone: (510) 841-1171
Facsimile: (510) 841-1666

Attorneys for Plaintiff
JAMES POINT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES POINT,

Plaintiff,

v.

UNITED STATES OF AMERICA, and
DOES 1-10, Inclusive,

Defendants

Case No. 07-CV-06398-JSW

FIRST AMENDED COMPLAINT FOR
DAMAGES FOR PERSONAL INJURY UNDER
FEDERAL TORT CLAIMS ACT

DEMAND FOR JURY TRIAL

Plaintiff JAMES POINT alleges damages for personal injury arising from this incident of at least \$250,000. Plaintiff alleges:

JURISDICTION

1. This is an action arising under the Federal Tort Claims Act, 28 USC §2671 et seq. The Court has jurisdiction over the subject matter of this action under 28 USC §1346(b). This action arises out of acts and omissions of defendant UNITED STATES OF AMERICA ("USA ") within the Northern District of California.

INTRADISTRICT ASSIGNMENT

2. Under Local Rules 3-2(c) and 3-5(b), the events giving rise to this law suit occurred in San Francisco, California.

1 Therefore, this action should be assigned to the San Francisco or
2 Oakland Division of this Court.

3 3. Plaintiff is informed and believes, and thereon alleges
4 that at all times mentioned herein defendant USA and DOES 1 to 5
5 were the owners of and Kelvin Hill, an employee of defendant USA,
6 and DOES 6 to 10 were the operators of a US Postal Service truck
7 consisting of a 1997 cab and Wabash trailer, VIN 1FUY3WDB5WL917685
8 (hereinafter "Truck") and said operators were driving the Truck in
9 the course and scope of their employment with the owner.

10 CLAIM FOR NEGLIGENCE

11 4. Plaintiff does not know the true names and capacities,
12 whether individual, corporate, associate, public, private or
13 otherwise, of defendants sued herein as DOES 1 through 10,
14 inclusive, and therefore sues said defendants by such fictitious
15 names. Plaintiff will seek leave to amend this complaint to
16 allege the true names and capacities when ascertained.

17 5. On or about December 28, 2005, plaintiff Point was
18 riding in a white 2002 Peterbuilt truck pulling a Kenworth trailer
19 (the "Peterbuilt") which was traveling south on 3rd Street at or
20 near the intersection with Evans Avenue in San Francisco,
21 California.

22 6. On or about December 28, 2005 at said intersection,
23 defendants, and each of them, and their agents and/or employees,
24 negligently owned, maintained, inspected, repaired, entrusted
25 and/or operated the Truck so as to cause it to collide with the
26 Peterbuilt in which plaintiff was riding.

27 7. As a proximate and legal result of the actions and
28 omissions of defendants, and each of them, as aforesaid, plaintiff

1 was hurt and injured in his health, strength and activity,
2 sustaining shock and injury to his nervous system and person, all
3 of which said injuries have caused and continue to cause him great
4 mental, physical and nervous pain and suffering. Plaintiff is
5 informed and believes and based thereon alleges that said injuries
6 will be permanent in nature, all to his general damage within the
7 jurisdictional limits of this court.

8 8. As a further proximate and legal result of the
9 negligence of defendants, and each of them, as aforesaid,
10 plaintiff has required hospitalization and medical treatment and
11 will continue to require medical treatment in the future. Medical
12 and incidental expenses have been incurred and will continue to be
13 incurred on plaintiff's behalf. The exact amount of those
14 expenses is unknown at this time but plaintiff prays leave to
15 amend his complaint to allege the exact amount when the same is
16 ascertained.

17 9. As a further proximate and legal result of the
18 negligence of defendants, and each of them, as aforesaid,
19 plaintiff has lost and will continue to lose in the future
20 earnings and/or the capacity to earn income. The exact amount of
21 this loss is unknown at this time but plaintiff prays leave to
22 amend his complaint to allege the exact amount when the same is
23 ascertained.

24 10. As a further proximate and legal result of the
25 negligence of defendants, and each of them, as aforesaid,
26 plaintiff has sustained losses of property and will continue to do
27 so in the future, including but not limited to damage to personal
28 effects contained in the Peterbuilt, and will sustain such losses

1 in the future.

2 11. A proper and valid claim was presented to defendant USA
3 via the US Postal Service on June 13, 2007, and was subsequently
4 denied on July 18, 2007.

5 12. Plaintiff demands a jury.

6 PRAYER

7 WHEREFORE, plaintiff prays for judgment as follows:

8 13. Special damages according to proof;

9 14. General damages according to proof;

10 15. Property damages according to proof;

11 16. Costs of suit;

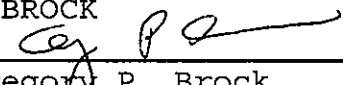
12 17. Interest;

13 18. Reasonable attorney's fees where available by law,
14 contract, or statute; and

15 19. Such other and further relief as the court may deem
16 proper.

17 Dated: April 9, 2008

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Gregory P. Brock,
Attorneys for Plaintiff,
JAMES POINT

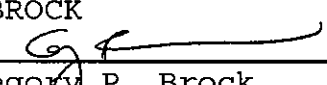
20 PLAINTIFF JAMES POINT'S DISCLOSURE OF NON-PARTY INTERESTED

21 ENTITIES OR PERSONS [Local Rule 3-16]

22 Pursuant to Civil L.R. 3-16, the undersigned certifies that
23 as of this date, other than the named parties, there is no such
24 interest to report.

25 Dated: April 9, 2008

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